MR 1815

1947.

File No. B. Motor Vehicles Tax/47

Legal **DEPARTMENT**

B **BRANCH**

Subject:—

L.A. Bill No. L of 1947

A Bill to amend the Bombay Motor Vehicles Tax Act, 1939.

Bombay Act, No. XLVI of 1947.

P.17/C

File No. B. Motor Vehicles Tax/47

Std. Scott. Slip 41 B e.

588-B

IV

C O N T E N T S.

Legal Department, File No . .. Motor Vehicles Tax/47 (582-B)

Sr. No.	Compilation No	Subject	Pages
		A Bill to amend the Bombay Motor Vehicles Tax Act 1935.	
1.	U.O. to H.D.No. 6474 dt.23rd June 1947.	consolidate druft Bill	1-2
2.	U.O. to H.D.(Thr. P.A. to H.M.(H.D.)) No. 87-L dt. 2nd oct 1947.	Governors recommendation	3-6
3.	G.R.L.D.No. 11562 dt. 3rd Dec. 1947	Seeking Governor's assent	7-10
4.	H.D.R.I.No. 15960dt. 11th Dec 1947	Governor's assent	11-12
5.	G.R.L.D.No. 58-L dt. 26 Sept 1947	Publication of the Bill	13-20
6.	G.R.L.D.No. 12057 dt. 15th Dec. 1947.	Publication of the Act	21-26
7.	———	Bill Act Debate	27-38

S.A.K.
10-5
5 Copies.

11/5

K.S.R.
11/5

Office of the R.L.A.

A consolidated draft Bill is sent herewith.

2. The proposal to amend clause (b) of sub-section (5) of section 5 of the Act for the purpose of enabling owners to claim refunds in respect of periods already expired does not fit in in the scheme of section 5 under which refunds can be claimed in advance only in respect of unexpired periods. If the intention is to enable owners to claim refunds in respect of periods already expired it would be necessary to have a separate provision. The object cannot be achieved by the mere addition of the words as proposed in clause (b) of sub-section (5) of section 5. Apart from this legal difficulty H.D. should consider before the amendment is made whether it would be administratively convenient to verify if any motor vehicle in respect of which a refund is claimed in respect of periods already expired was not really used in any public place.

3. The subject-matter of the Bill falls under entry 48A in the Provincial Legislative List in the Seventh Schedule to the Government of India Act, 1935. The Bill does not affect any special responsibility of the Governor under section 52(1) nor does it require any sanction und r the said Act. It, however requires the Governor's recommendation under section 82(1)(a) of that Act. As the Bill does not contain any provision repugnant to the provisions of any earlier Federal law or existing Indian law with respect to any matter enumerated in the Concurrent Legislative List it will not be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Constitution Act.

4. Home Department will not no doubt attach a revised Statement of Objects and Reasons to the Bill.

Sd/- P.N.Lad
~~O.C.~~ Remembrancer of Legal Affairs.

U.O. to H.D.No. 6474, dated the 23rd June 1947.

S.A.K.
10-
4 copies

Legal Department.

The ~~t~~ Bill to amend the Bombay Motor Vehicles Tax Act, 1935, having been published in the Bombay Government Gazette, dated the 27th September 1947, these papers are returned to Home Department for further necessary actio and for submitting them to H.M. (Home & Revenue) for his use at the time of introducing the Bill. The Home Department may now arrange to give the necessary notice to the Secretary to the Bombay Legislative Assembly in the appended form. That Department is also requested to obtain the orders of Government in due course regarding the application of the proposed Act to the partially excluded areas . A draft recommendation order under section 52(1)(a) of the Government of India Act, 1935, is appended . Before it is issued , the papers should be submitted to H.E. the Governor.

Sd/-H. D. Pandit.
1-10
~~G.G.~~ For Secretary to Government.

U.H. to H.D.No. through P.A. to H.M.(H.D.)No. 57-L dated the 2nd October 1947.

S.A.K.
10-5-
4 Copies

Home Department. 1947.

Poona.

ORDER.

No. :- In exercise of the powers conferred upon him by clause (a) of sub-section (1) of section 52 of the Government of India Act, 1935, the Governor of Bombay is pleased to recommend to the Bombay Legislative Assembly the consideration of the Bombay Motor Vehicles Tax (Amendment) Bill, 1947.

By order of the Governor of Bombay.

Secretary to Government.

S.A.E.
10-5
4 Copies

No. 11562
Legal Department.
Bombay Castle, 3rd December 1947.

From

F.W.Lad, Esquire, I.C.S.,

Secretary to the Government of Bombay.

To

The Private Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Motor Vehicles Tax Act, 1935.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for the assent of His Excellency the Governor, the authentic copy of the Bill to amend the Bombay Motor Vehicles Tax Act, 1935, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the the 7th and the 17th October 1947, respectively.

2. The subject-matter of the Bill falls under entry 48A in List II in the Seventh Schedule to the Government of India Act, 1935.

3. As the Bill does not relate to any matter in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act, 1935.

4. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

S.A.K.
10-5
4 copies

5. I also forward herewith one copy of each of the papers noted in the margin. The Bill was not referred to a Select Committee.

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.	
3. Bill as read for the third time and passed by the Bombay Legislative Council.	
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 7th October 1947 and of the Bombay Legislative Council dated the 17th October 1947.	

I have the honour to be,

Sir,

Your most obedient servant,

P.M.Lad
3-12

O.C. Secretary to Government.

Through

The Secretary to the Government of Bombay,

Home Department.

S.A.K.
10-5
copies

No. P.S.G.- 5750
Office of the Private Secretary to the Governor,
Government House .
Bombay Castle 11th December 1947.

From

L.E.Ba. shaw, Esquire, I.C.S.,
Private Secretary to the Gov rnor of Bombay.

To

The Secretary to the Government of Bombay .
Legal Department.

Subject:- The Bombay Motor Vehicles Tax (Amendment)
Bill . 1947.

Sir.

With reference to your letterNo. 11562. dated the 3rd December 1947. on the subject noted above. I return herewith. with His Excellency the Governor's assent signified thereon. the authentic copy of the Bombay Motor Vehicles Tax (Amendment) Bill. 1947.

Your obedient servant.

Sd/-

Private Secretary
to the Governor of Bombay .

S.A.R.
10-5
4 copies

Bills.

A Bill to amend the Bombay Motor Vehicles Tax Act. 1935.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 55-L
Council Hall, Poona. 26th September 1947.

Memorandum from the Home Department No. 1530/4-X dated the 23rd September 1947:- Transferring for necessary action the papers relating to a Bill to amend the Bombay Motor Vehicles Tax Act, 1935.

RESOLUTION. 1.- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay , for publication in the Bombay Government Gazette , dated the 27th September 1947, as Bill No. I of 1947.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette, on the 1st October 1947.

3. The dates of the various publications should be reported to the Bombay Legislature Department

By order of the Governor of Bombay,

Sd/- V.S.Palekar,

Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the Bill and Statement of Objects and Reasons and with a request that 230 Gazette copies of the Bill and the S.O.R. may be forwarded to the Bombay Legislature Department for distribution to themembers of the Bombay Legislative Assemblyand 45 copies for the use of the Legal Department and 20 copies for the use of
The Home Department.) with a copy of the
*The Oriental Translator to Government.)
The Bombay Legislature Department.) Bill, and S.O.R.
The Director of Publicity, Bombay .)

.....

* With five extra copies of the Bill.

S.A.K.
10-5
4 copies

Publicati n of the Bombay Motor Vehicles Tax (Amendment) Act, 1947.

GOVERNMENT OF BOMBAY
Legal Department.
Resolution No. 12057
Bombay castle, 15th December 1947.

Letter t. the Private Secretary to th Governor, No. 11562, dated the 3rd December 1947.

Letter from the Private Secretary to the Governor, No. P.S.G. 5730, dated the 11th December 1947:- With reference to your letter No. 11562, dated the 3rd December 1947, on the subject noted above, I return herewith, with His Excellency the Governor's Assent signified thereon, the authentic copy of the Bombay Motor Vehicles Tax (Amendment) Bill, 1947.

RESOLVED:- The law should be published as Bombay Act No. XLVI of 1947, in the Bombay Government Gazette dated, the 15th December 1947.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay--Government Gazette.

3. A copy of the Act should be forwarded to the Home Department with reference to the Memorandum from that Department No. 7520 /4-E dated the 23rd September 1947.

By order of the Governor of Bombay,

Sd. S.B.Palekar.
Deputy Secretary to Government

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the legal Department).
The Home Department .) With a copy
*The Oriental Translator to Government.) of the Act.
The Bombay Legislature Department.)
The Director of Publicity, Bombay)

*With five extra copies of the Act.

S.A.E.
10-8
4 copies

Bombay Act XLVI of 1947

~~L. A. BILL No. I OF 1947.~~

An Act

~~*A Bill*~~ *to amend the Bombay Motor Vehicles Tax Act, 1935.*

(As read for the third time and passed by the Legislative Assembly on the 7th October 1947.)

(As read for the third time and passed by the Legislative Council on the 17th October 1947.)

Bom. XXXIV of 1935.

WHEREAS it is expedient to amend the Bombay Motor Vehicles Tax Act, 1935, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Motor Vehicles Tax (Amendment) Act, 1947.

Bom. XXXIV of 1935.

Amendment of section 3 of Bom. XXXIV of 1935.

2. In section 3 of the Bombay Motor Vehicles Tax Act, 1935 (hereinafter called the said Act),—

(*i*) to sub-section (*1*) the following proviso shall be added, namely:—

"Provided that in the case of motor vehicles kept by a dealer in, or manufacturer of, such vehicles for the purposes of trade, the tax shall only be levied and paid by such dealer or manufacturer on vehicles permitted to be used on roads in the manner prescribed by rules made under the Motor Vehicles Act, 1939";

IV of 1939.

(*ii*) the first proviso to sub-section (*2*) and the word "further" in the second proviso to the said sub-section (*2*) shall be deleted.

Amendment of section 5 of Bom. XXXIV of 1935.

3. In section 5 of the said Act,—

(*i*) in sub-section (*1*) for the portion beginning with the words "When any person" and ending with the words "to a refund" the following shall be substituted, namely:—

"When any person has paid the annual tax in advance in respect of a motor vehicle and has

produced a certificate signed by a registering authority stating that the tax token and the certificate of taxation issued in respect of such vehicle have been surrendered, he shall be entitled to a refund, subject to such conditions as may be notified by the Provincial Government in the Official Gazette";

(*ii*) in sub-section (*2*) for the portion beginning with the words "When any person" and ending with the words "to a refund" the following shall be substituted, namely :—

"When any person has paid the quarterly tax in advance in respect of a motor vehicle and has produced a certificate signed by a registering authority stating that the tax token and the certificate of taxation issued in respect of such vehicle have been surrendered, he shall be entitled to a refund, subject to such conditions as may be notified by the Provincial Government in the Official Gazette".

Insertion of new section 5-A in Bom. XXXIV of 1935.

4. After section 5 of the said Act, the following new section shall be inserted, namely :—

Refund of tax in respect of motor vehicles not used in public places.

"5A. When any person has paid the tax in respect of a motor vehicle, he shall be entitled to a refund of the same as provided in sub-sections (*1*) and (*2*) of section 5 on the production of a certificate signed by a registering authority stating that such authority is satisfied that the vehicle in respect of which the refund of the tax is claimed has not been used in any public place during the period for which such refund is claimed.".

Amendment of section 6 of Bom. XXXIV of 1935.

5. In section 6 of the said Act,—

(*i*) in sub-section (*2*)—

(*a*) for the words "altered so" the words "altered or is proposed to be used in such manner" shall be substituted ;

(*b*) for the words "such person" the words "such owner or person" shall be substituted ;

(*c*) after the words "alteration made" the words "or of such use" shall be inserted ;

(*d*) after the words "so altered" the words "or proposed to be so used" shall be inserted ;

(*ii*) after sub-section (*2*) the following new sub-section shall be inserted, namely :—

"(3) Such owner or person shall, at the time of making payment of the tax under sub-section (*1*) or of the additional tax under sub-section (*2*), produce before the registering authority a valid certificate of insurance in respect of the vehicle complying with the requirements of Chapter VIII of the Motor Vehicles Act, 1939.". IV of 1939.

6. In section 7 of the said Act,— Amendment of section 7 of Bom. XXXIV of 1935.

(*a*) after the words "is altered" the words "or proposed to be used" shall be inserted;

(*b*) after the words "being altered" the words "or so proposed to be used" shall be inserted;

(*c*) after the words "so altered" the words "or proposed to be so used" shall be inserted.

7. In Article IV in clause A of Schedule I to the said Act,— Amendment of Schedule I to Bom. XXXIV of 1935.

(*i*) in paragraph (*a*) for the words and brackets "persons (excluding the driver of the vehicle)" the word "passengers" shall be substituted;

(*ii*) in paragraph (*b*)—

(*a*) for the words and brackets "two persons (excluding the driver of the vehicle)" the words "four passengers" shall be substituted;

(*b*) for the word "person" the word "passenger" shall be substituted.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. L OF 1947]

(As read for the third time and passed by the Legislative Assembly on the 7th October 1947.)

(As read for the third time and passed by the Legislative Council on the 17th October 1947.)

A Bill to amend the Bombay Motor Vehicles Tax Act, 1935.

[Mr. MORARJI DESAI, M.L.A.]

P Bk Hb 230—2

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. L OF 1947.

A Bill to amend the Bombay Motor Vehicles Tax Act, 1935.

Bom. XXXV of 1935.

WHEREAS it is expedient to amend the Bombay Motor Vehicles Tax Act, 1935, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Motor Vehicles Tax (Amendment) Act, 1947.

Bom. XXXIV of 1935.

Amendment of section 3 of Bom. XXXIV of 1935.

2. In section 3 of the Bombay Motor Vehicles Tax Act, 1935 (hereinafter called the said Act),—

(*i*) to sub-section (*1*) the following proviso shall be added, namely :—

"Provided that in the case of motor vehicles kept by a dealer in, or manufacturer of, such vehicles for the purposes of trade, the tax shall only be levied and paid by such dealer or manufacturer on vehicles permitted to be used on roads in the manner prescribed by rules made under the Motor Vehicles Act, 1939.";

IV of 1939.

(*ii*) the first proviso to sub-section (*2*) and the word "further" in the second proviso to the said sub-section (*2*) shall be deleted.

Amendment of section 5 of Bom. XXXIV of 1935.

3. In section 5 of the said Act,—

(*i*) in sub-section (*1*) for the portion beginning with the words "When any person" and ending with the words "to a refund" the following shall be substituted, namely :—

"When any person has paid the annual tax in advance in respect of a motor vehicle and has

produced a certificate signed by a registering authority stating that the tax token and the certificate of taxation issued in respect of such vehicle have been surrendered, he shall be entitled to a refund, subject to such conditions as may be notified by the Provincial Government in the Official Gazette";

(*ii*) in sub-section (*2*) for the portion beginning with the words "When any person" and ending with the words "to a refund" the following shall be substituted, namely :—

"When any person has paid the quarterly tax in advance in respect of a motor vehicle and has produced a certificate signed by a registering authority stating that the tax token and the certificate of taxation issued in respect of such vehicle have been surrendered, he shall be entitled to a refund, subject to such conditions as may be notified by the Provincial Government in the Official Gazette".

Insertion of new section 5-A in Bom. XXXIV of 1935.

4. After section 5 of the said Act, the following new section shall be inserted, namely :—

Refund of tax in respect of motor vehicles not used in public places.

"5A. When any person has paid the tax in respect of a motor vehicle, he shall be entitled to a refund of the same as provided in sub-sections (*1*) and (*2*) of section 5 on the production of a certificate signed by a registering authority stating that such authority is satisfied that the vehicle in respect of which the refund of the tax is claimed has not been used in any public place during the period for which such refund is claimed.".

Amendment of section 6 of Bom. XXXIV of 1935.

5. In section 6 of the said Act,—

(*i*) in sub-section (*2*)—

(*a*) for the words "altered so" the words "altered or is proposed to be used in such manner" shall be substituted;

(*b*) for the words "such person" the words "such owner or person" shall be substituted;

(*c*) after the words "alteration made" the words "or of such use" shall be inserted;

(*d*) after the words "so altered" the words "or proposed to be so used" shall be inserted;

(*ii*) after sub-section (*2*) the following new sub-section shall be inserted, namely :—

"(3) Such owner or person shall, at the time of making payment of the tax under sub-section (*1*) or of the additional tax under sub-section (*2*), produce before the registering authority a valid certificate of insurance in respect of the vehicle complying with the requirements of Chapter VIII of the Motor Vehicles Act, 1939.". IV of 1939.

6. In section 7 of the said Act,— Amendment of section 7 of Bom. XXXIV of 1935.

(*a*) after the words "is altered" the words "or proposed to be used" shall be inserted;

(*b*) after the words "being altered" the words "or so proposed to be used" shall be inserted;

(*c*) after the words "so altered" the words "or proposed to be so used" shall be inserted.

7. In Article IV in clause A of Schedule I to the said Act,— Amendment of Schedule I to Bom. XXXIV of 1935.

(*i*) in paragraph (*a*) for the words and brackets "persons (excluding the driver of the vehicle)" the word "passengers" shall be substituted;

(*ii*) in paragraph (*b*)—

(*a*) for the words and brackets "two persons (excluding the driver of the vehicle)" the words "four passengers" shall be substituted;

(*b*) for the word "person" the word "passsenger" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The objects of the Bill are explained in the following notes on clauses.

2. *Clause 2.*—The existing location of the first proviso in sub-section (*2*) instead of in sub-section (*1*) of section 3 of the Bombay Motor Vehicles Tax Act, 1935, is anomalous and somewhat confusing. The proviso gives the impression that the manner of payment of the tax prescribed in sub-section (*2*) is not intended to apply to motor vehicles kept by a dealer in, or manufacturer of, such vehicles for the purposes of trade. This is not the intention and it is, therefore, proposed to clarify the position by an amendment of section 3.

3. *Clause 3.*—At present an owner of a motor vehicle other than a transport vehicle on transfer to another Province during a tax quarter can claim a refund under section 5 of the Bombay Motor Vehicles Tax Act, 1935, for the unexpired portion of the quarter for which he has paid the tax in this Province. According to the arrangement arrived at between all the Provincial Governments and Chief Commissioners, an owner of such a vehicle would now be exempt from the tax in respect of that vehicle in the Province to which it is transferred for the quarter for which he has already paid the tax in this Province. Thus he would get a double advantage, namely, a refund in this Province and an exemption from the tax in the other Province. To prevent this double advantage accruing to the owner it is proposed to amend section 5 of the Act to enable this Government to refuse refund of the tax to the owner in such cases.

4. *Clause 4.*—Section 5(*5*)(*b*) of the Act, as it stands at present, enables owners to obtain refunds of tax in respect of motor vehicles, *in advance*, for periods during which the motor vehicles are not used. No refund is possible if it is not claimed in advance of the period during which the motor vehicle is not to be used. In order to enable owners to claim refunds at a later date also, it is proposed to make a separate provision in this behalf.

5. *Clauses 5 and 6.*—Several cases have come to the notice of Government in which motor vehicles without any structural alterations have been put to uses other than those for which they are taxed. Under the Bombay Motor Vehicles Tax Act, 1935, a higher rate of tax is leviable on a motor vehicle which is structurally altered so as to be put to a use on which a higher rate of tax is due than the one to which it was originally liable. But the higher tax is not leviable on a motor vehicle if it is put to such different use without any structural alterations. It is, therefore, proposed to amend sections 6 and 7 of the Act to make motor vehicles liable to a higher rate of tax on such change of use irrespective of structural alterations.

At present there is provision in Rule 5 of the Bombay Motor Vehicles (*Third Party Insurance*) Rules, 1946, requiring the production of a certificate of insurance in respect of a motor vehicle at the time of making payment of the tax in respect of that vehicle. But in case a certificate of insurance is not produced as provided for in that rule, it is not possible for the Regional Transport Officer to refuse to accept the tax. In order to enable the Regional Transport Officer to do this, it is proposed to amend section 6 of the Bombay Motor Vehicles Tax Act, 1935, and to make the production of a certificate of insurance compulsory before payment of tax in respect of a motor vehicle.

6. *Clause 7.*—It is clear from a perusal of Article IV as a whole of Schedule I to the Bombay Motor Vehicles Tax Act, 1935, that as vehicles licensed to carry not more than four persons fall under paragraph (*a*), paragraph (*b*) is intended to come into operation only when the vehicle is licensed to carry more than four persons. The amendment is intended to remove the inconsistency between paragraphs (*a*) and (*b*).

Under paragraphs (*a*) and (*b*) of Article IV of clause A of Schedule I of the Bombay Motor Vehicles Tax Act, 1935, only the driver of a motor vehicle plying for hire and used for the transport of passengers is excluded from the scope of taxation. In order to exclude the conductors and employees of the permit holders (while on duty) from the scope of taxation, it is also proposed to delete the words "excluding the driver of the vehicle" occurring in brackets in the two paragraphs and to substitute the words "passengers" and "passenger" for the words "persons" and "person" respectively occurring in those paragraphs. The word "passenger" as defined in the Bombay Motor Vehicles Rules, 1940, excludes the driver of the vehicle, the conductor and an employee of the permit holder while on duty.

Dated 18th September 1947. (Signed) MORARJI DESAI.

By order of the Governor of Bombay,

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

Poona, dated the 26th September 1947.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.